IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23745 of 2004

Between:

Chinnamsetty Murali Krishna, S/o.Krishna Murthy,
R/o.D.No.14/600, Gopalaswamy Street,
Kadapa Town and Mandal, Kadapa District.

..... PETITIONER

AND

The Commandant, XI Battalion, Andhra Pradesh Special police, Bhakarapet, Sidhout Mandal, Kadapa District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus, declaring the action of the respondent in interfering and obstructing the construction of Daba by the petitioner in the part of land of 4.28 acres in Sy.NO.608 of Peddapalli Village in Sidhout Mandal of Kadapa District without any authority, without issuing any notice and without passing any order as illegal, unjust, arbitrary, without jurisdiction, highhanded, malafide and against the principles of natural justice and against Article 300-A of the Constitution of India and against the statutory provisions and consequently direct the respondent not to obstruct and interfere with the petitioner's construction of Daba building in his land of 4.28 acres in Sy.NO. 608 of Peddapalli village, sidhout Mandal in Kadapa District.

Counsel for the Petitioner: MR.L.J.VEERA REDDY

Counsel for the Respondent : GP FOR HOME

The Court at the stage of admission made the following ORDER:

Petitioner seeks a writ of *mandamus* declaring that the action of the respondent in interfering with and obstructing the construction of a daba by the petitioner in the land in survey No.608 of Peddapalli village, Sidhout mandal of Kadapa district, as illegal and arbitrary. The petitioner states that he is the absolute owner of the property and has undertaken construction of a daba, duly obtaining the permission from the local authority concerned. According to him, the respondent has no right to interfere with the same.

Heard learned counsel for the petitioner and learned Government Pleader for Home.

The relief claimed by the petitioner is almost in the form of a perpetual injunction. Such a relief can be granted only after recording findings at least, *prima facie,* as to the balance of convenience and existence of title. The same cannot be undertaken by this Court. The petitioner expresses the difficulty and hardship in approaching a civil Court, having regard to the compliance with Section 80 C.P.C. It needs to be observed that Section 80 itself provides for

dispensing with the notice depending on the urgency. Nothing prevents the petitioner from approaching the competent Court of Civil jurisdiction by invoking the provisions of law.

Hence, the writ petition is disposed of leaving it open to the petitioner to file a suit, if he is so advised. No order as to costs.

21.12.2004

Note:

Issue CC in three days.

(BO)

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To

1 The Commandant, XI Battalion, Andhra Pradesh Special police,

Bhakarapet, Sidhout Mandal, Kadapa District.

2 Two C.Cs. to the Government Pleader for Home, High Court

Buildings, A.P., Hyderabad, (OUT).

3 Two C.D.Copies.